

Office of Secretary of State State of Missouri

Case No. AP-10-07

IN THE MATTER OF:

CRAIG LAVERNE MCCLASKEY,
CRD# 1990517

Respondent.

Serve:

Craig Laverne McClaskey
824 County Road 2275
Moberly, Missouri 65270

CONSENT ORDER

SUMMARY OF ENFORCEMENT SECTION'S ALLEGATIONS

The Enforcement Section of the Missouri Securities Division ("Enforcement Section") alleges that Respondent Craig Laverne McClaskey engaged in dishonest and unethical practices in the securities and/or insurance business, made untrue statements of material fact, and failed to disclose material facts in connection with the offer and sale of securities and that these activities constitute grounds to bar, condition, or limit McClaskey's registration in Missouri pursuant to Sections 409.4-412(b),(c), (d)(2), and (d)(13), RSMo. (Cum. Supp. 2009).

Respondent and the Enforcement Section desire to settle the allegations and the matters raised by the staff of the Enforcement Section relating to the alleged violations by Respondent.

CONSENT TO JURISDICTION

Respondent and the Enforcement Section stipulate and agree that the Commissioner has jurisdiction over the Respondent and these matters pursuant to the Missouri Securities Act of 2003, Chapter 409, *et seq.*

Respondent and the Enforcement Section stipulate and agree that the Commissioner has authority to enter this Order pursuant to Section 409.6-604(h), RSMo. (Cum. Supp. 2009), which provides:

“The commissioner is authorized to issue administrative consent orders in the settlement of any proceeding in the public interest under this act.”

WAIVER AND EXCEPTION

Respondent waives his right to a hearing with respect to this matter.

Respondent waives any right that he may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order. Respondent specifically forever releases and holds harmless the Missouri Office of Secretary of State, Secretary of State, Commissioner of Securities, and their respective representatives and agents from any and all liability and claims arising out of, pertaining to, or relating to this matter.

CONSENT TO COMMISSIONER'S ORDER

Respondent and the Enforcement Section stipulate and agree to the issuance of this Consent Order without further proceedings in this matter, agreeing to be fully bound by the terms and conditions specified herein.

Respondent agrees not to take any action or to make or permit to be made any public statement creating the impression that this Order is without factual basis. Nothing in this paragraph affects Respondent's (a) testimonial obligations; (b) right to take legal or factual position in defense of litigation or in defense of other legal proceedings in which the Commissioner of Securities is not a party; or (c) right to make public statements that are factual.

Respondent agrees that Respondent is not the prevailing party in this action since the parties have reached a good faith settlement.

Respondent neither admits nor denies the allegations made by the Enforcement Section, but consents to the Commissioner's Findings of Fact, Conclusions of Law and Order as set forth below solely for the purposes of this proceeding and any proceeding that may be brought to enforce the terms of this Consent Order.

FINDING OF FACT

1. Edward D. Jones & Co., L.P. ("EDJ") is a Missouri-registered broker-dealer based in St. Louis, Missouri and has an address of 12555 Manchester Road, St. Louis, Missouri 63131. EDJ is registered in Missouri through the Central Registration Depository System ("CRD") with CRD number 250.
2. Craig Laverne McClaskey ("McClaskey") was a Missouri-registered agent with EDJ. McClaskey was registered with EDJ in Missouri through the CRD beginning on May 7, 2001. On December 2, 2009, EDJ filed information with the CRD terminating McClaskey's registration in Missouri. McClaskey has CRD number 1990517. McClaskey has an address of 824 County Road 2275, Moberly, Missouri 65270.
3. On November 30, 2009, representatives of EDJ contacted staff members, including an investigator, of the Enforcement Section and stated, among other things, that:
 - a. EDJ representatives received information that McClaskey was named as a beneficiary on a customer's assets; and
 - b. based on this information, on November 19, 2009, these representatives went to McClaskey's office to interview McClaskey and to review McClaskey's records.
4. 4. McClaskey informed the Enforcement Section that, among other things, he told the EDJ representatives on November 19, 2009 that:

- a. McClaskey was the agent for a Missouri resident ("MR") who was a neighbor and was almost like family to McClaskey;^[1]
 - b. McClaskey stated MR's intent was to leave a portion of her estate to McClaskey;
 - c. McClaskey made an effort to keep this information non-public;
 - d. McClaskey initiated, at MR's request, a change of beneficiary on two of MR's fixed annuity policies by contacting the vendor of the annuity, and that McClaskey listed himself as the beneficiary on one of these policies and listed his wife as the beneficiary on the other policy;
 - e. McClaskey acknowledged filling out EDJ audit questionnaires incorrectly because he did not want to raise any suspicion with EDJ;
 - f. McClaskey listed his wife as the "niece" of MR on one of these policies. McClaskey stated he did this in an effort to not raise a red flag with EDJ;
- ^[1]MR is an eighty-five year-old widow.
- g. McClaskey stated that he knew that being named a beneficiary to a customer's assets would be a red flag to EDJ;
 - h. McClaskey and/or his wife were also named as beneficiaries on MR's mutual fund and an IRA;
 - i. McClaskey stated that there were other entities that MR wanted her money to go to upon her death and McClaskey stated that he was encouraging MR to finalize this list;
 - j. on November 18, 2009, McClaskey assisted MR in liquidating fifty-two thousand dollars from her accounts at EDJ with the intent to purchase a property in Florida ("Florida Property"). McClaskey knew that upon MR's death the Florida Property would go to McClaskey;
 - k. MR paid seven hundred dollars (\$700) for McClaskey's golf membership as a Christmas present; and
 - l. McClaskey stated he had "never borrowed a penny from [MR] or taken a penny from [MR]."
5. According to the statements of EDJ representatives, on November 19, 2009, during McClaskey's interview, one of the EDJ representatives left the interview of McClaskey to interview MR, and MR stated to the EDJ representative, among other things, that:
- a. MR wanted McClaskey to have this money;
 - b. she had no one else; and
 - c. she wanted to give these assets to McClaskey.

6. As part of his employment with EDJ, McClaskey was required to file an annual *Audit Questionnaire*.
7. Questionnaires, such as the one used by EDJ, assist the firm in effectuating their supervisory responsibilities vis-à-vis the agents whom they employ.
8. In the *Audit Questionnaire*, McClaskey was asked about his activities during the prior year. McClaskey completed these questionnaires for 2007, 2008, and 2009. Each of these documents were signed by McClaskey attesting to the fact that the responses he provided was accurate and complete and that his office operated in compliance with the regulations and the firm policy that were articulated in the *Audit Questionnaire*.
9. In 2009, McClaskey made the following response in this *Audit Questionnaire*^[2]:

“69. Are you named as beneficiary on any client's account other than an immediate family member's account?” McClaskey responded, “NO.”
10. In 2009, McClaskey stated in the Audit Questionnaire that he understood, and attested that he was in compliance with, the following policies:
 - a. “[A]ssociates may not have an interest in or share in any manner in the profits or losses in any customer account unless the customer is the spouse, child or parent of the associate concerned;”
 - b. “[A]ssociates may not engage in any act or action or any course of conduct in violation of any federal law or regulation, or any state law or regulation or company policy;” and
 - c. “[A]ssociates may not during any one-year period, give to any customer, gifts totaling \$100+ or receive the same from any customer during any one year.”

CONCLUSION OF LAW

11. Respondent McClaskey engaged in dishonest or unethical practices in the securities and/or insurance business(es) by:
 - a. filing documents with his employing broker-dealer that claimed that McClaskey's wife was the niece of MR, which was untrue; and
 - b. failing to submit to EDJ a change of beneficiary status on a customer's annuity policy.
12. Respondent McClaskey engaged in dishonest and unethical practices in the securities and/or insurance business(es). These dishonest and unethical practices are grounds to bar, condition, or limit Respondent McClaskey's registration as a broker-dealer agent in Missouri pursuant to Sections 409.4-412(b), (c), (d)(2) and (d)(13), RSMo. (Cum. Supp. 2009).
13. Respondent McClaskey made untrue statements of material fact to EDJ in Audit Questionnaires in 2007, 2008 and 2009, by:
 - a. claiming that he was not named as beneficiary on a customer's account, when

this was untrue;

[2]In the 2007 and 2008 Audit Questionnaires McClaskey provided the same responses to these questions.

- b. stating that he did not have an interest in any customer account, when this was untrue;
 - c. stating that he was not in violation of company policy, when this was untrue; and/or
 - d. stating that he had not received a gift totaling over \$100 from a customer, when this was untrue.
14. These statements were untrue, would operate as a fraud on EDJ and were made in connection with the offer and/ or sale of securities and, as such, constitute a violation of Section 409.5-501 (2), RSMo. (Cum. Supp. 2009). Violations of Section 409.5-501(2) constitute grounds to bar, condition, or limit McClaskey's registration in Missouri pursuant to Sections 409.4-412(b), (c), (d)(2), and (d)(13) RSMo. (Cum. Supp.2009).
15. Prohibiting Respondent McClaskey's registration in Missouri is necessary or appropriate and in the public interest for, among other things, the following reasons:
- a. McClaskey engaged in dishonest and unethical activities in the securities and/or insurances business;
 - b. these dishonest and unethical business activities took place over a period of years;
 - c. McClaskey failed to disclose material facts to his broker-dealer;
 - d. these failures to disclose material facts to his broker-dealer took place over a period of years;
 - e. McClaskey's activities were done with knowledge that they were in violation of the policies and procedures of his employing broker-dealer;
 - f. McClaskey attempted to hide these dishonest and unethical activities from his employing broker-dealer;
 - g. McClaskey circumvented reviews of his activities by his broker-dealer by filing documents directly with an insurance company;
 - h. McClaskey filed false documents with this insurance company relating to a customer's account; and
 - i. allowing McClaskey to continue to work as a registered agent would present opportunities for future violations.
16. This order is necessary and appropriate, in the public interest and for the protection of investors, and is consistent with the purposes of the Missouri Securities Act of 2003.

ORDER

WHEREAS, the Commissioner, after consideration of the stipulations set forth above and on the consent of Respondent and the Enforcement Section of the Securities Division, finds the following Order to be in the public interest and necessary for the protection of public investors and consistent with the provisions of Chapter 409, RSMo. (Cum. Supp. 2009).

NOW, THEREFORE, it is hereby Ordered that:

1. Respondent is prohibited from applying for registration as an agent or investment adviser representative in the State of Missouri for a period of five (5) years from the effective date of this Consent Order;
2. Respondent is ordered to pay a civil penalty in the amount of ten thousand dollars (\$10,000); this amount will be suspended provided that Respondent complies with the terms of this order and provided that Respondent does not violate the securities act for a period of three (3) years;
3. Respondent is ordered to pay one thousand dollars (\$1,000) as the cost of this investigation. This amount shall be payable to the Missouri Secretary of State's Investor Education and Protection Fund. This amount shall be due and payable within thirty (30) days from the date of this Consent Order, and shall be submitted to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101;
4. Respondent is ordered to pay to the Missouri Secretary of State's Investor Education and Protection Fund the sum of fifteen thousand dollars (\$15,000); this payment will be suspended provided that Respondent complies with the terms of this order and provided that Respondent does not violate the securities act for a period of three (3) years.
5. The suspended payments shall, for three (3) years from the execution of this document, become immediately payable, under operation of law, upon Respondent's failure to comply with the terms of this order, and such immediately due payments shall be in addition to all other penalties then available under the law. The Commissioner may refer this matter for enforcement as provided in Sections 409.6-603 and 409-6-604, RSMo. (Cum. Supp. 2009); and
6. Respondent shall pay his own costs and attorney's fees with respect to this matter.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,
MISSOURI THIS 26TH DAY OF FEBRUARY, 2010.

ROBIN CARNAHAN
SECRETARY OF STATE

(Signed/Sealed)
MATTHEW D. KITZI
COMMISSIONER OF SECURITIES

Consented to by:
MISSOURI SECURITIES DIVISION

Mary S. Hosmer
Assistant Commissioner of Securities

Consented to by:

Craig Laverne McClaskey

Approved as to Form:

Douglas W. Hennon
Attorney for Respondent McClaskey